



October 28, 2020

Performance Audit

Albuquerque Police Department Overtime Audit

Albuquerque Police Department

Report No. 21-102



CITY OF ALBUQUERQUE
OFFICE OF INTERNAL AUDIT

City of Albuquerque - Office of Internal Audit

Albuquerque Police Department Overtime Audit

Performance Audit

October 28, 2020

Audit #21-102

The audit objective was to determine whether the Albuquerque Police Department (APD) has a framework in place to effectively administer, manage, and monitor overtime. Specifically, the Office Internal Audit (OIA) assessed whether:

- Overtime incurred and paid, is accurate and appropriate and complies with the City's Collective Bargaining Agreement (CBA) and subsequent Memorandums of Understandings with the Albuquerque Police Officers Association (APOA), as well as City and departmental policies and procedures.
- APD has policies and procedures in place that are effective in preventing and identifying excessive use of overtime.

Executive Summary

In a sample that included 56 weeks of officer time tested, the audit identified 64 instances of overpayments totaling at least \$4,545, resulting from officers being paid based on their scheduled hours, instead of the actual hours worked. In these instances, the hours reported by the officer to Computer Aided Dispatch (CAD) were at least 30 minutes less than the hours the officer was scheduled and ultimately paid for. Additionally, not all officers had CAD reports to support any non-training related hours paid. Specifically, in the sample tested there were 40 days where CADs were missing. Amounts paid related to this time totaled a minimum of \$8,635. OIA also found Standard Operating Procedures (SOPs) are outdated and not in line with best practices.

While APD has recently taken steps to limit overtime usage, opportunities exist to further these efforts. Specifically, officers are allowed to use paid time off to work overtime which can cause a cascading effect that increases APD's need for more overtime. OIA compared APD's Collective Bargaining Agreement (CBA) with the Albuquerque Police Officers Association (APOA) to those of four other similar police departments and found that unlike APD, three of the four other departments do not consider paid sick leave as time worked when computing overtime. Lastly, the audit found an isolated instance where one APD employee inappropriately utilized the system login credentials of their supervisor, to approve their own time, which included overtime payments totaling \$8,830 in fiscal year 2020.

APD agrees with the findings and recommendations made. The response of the department is attached as an appendix. OIA will work with the department to follow up every six months on the status of the open recommendations made in this report.

Recommendations



APD should:

- Seek repayment from officers, if upon research it determines that overpayment(s) occurred.
- Begin conducting periodic spot-checks to verify time reported in TeleStaff is supported by the time reflected in officers' CADs.
- Continue its efforts to update SOPs to reflect current practices and to include procedures surrounding time approvals and monitoring of total overtime by supervisors.
- Re-communicate policies prohibiting employees from lending passwords or usernames to anyone and require supervisors to successfully complete TeleStaff Supervisor Training.
- Consider negotiating changes in its CBA with the APOA so that overtime is calculated based on hours actually worked each week.

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City of Albuquerque

Office of Internal Audit

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Accountability in Government Oversight Committee
P.O. Box 1293
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INTRODUCTION

The Office of Internal Audit (OIA) conducted a performance audit of the Albuquerque Police Department's (APD) use of overtime during fiscal years 2019 and 2020. The audit is included in OIA's work plan for fiscal year 2021. The audit objective was to determine whether APD has a framework in place to effectively administer, manage, and monitor overtime. Specifically, the audit assessed whether:

- Overtime incurred and paid, is accurate and appropriate and complies with the City of Albuquerque's (the City's) Collective Bargaining Agreement (CBA) and subsequent Memorandums of Understandings with the Albuquerque Police Officers Association (APOA), as well as City and departmental policies and procedures.
- APD has policies and procedures in place that are effective in preventing and identifying excessive use of overtime.

Information pertaining to the audit objectives, scope and methodology can be found in Appendix A.

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BACKGROUND

APD's mission is to reduce crime, increase safety, and build relationships through community policing. APD's Chief of Police, who is appointed by the Mayor and reports to the Chief Administrative Officer, is responsible for the operations and budget of the department. APD is organized into five major bureaus and each bureau has a Deputy Chief appointed by the Chief of Police, that is responsible for its oversight. As of June 30, 2020, the department had 1,053 sworn¹ employees and 566 civilian² employees, for a total of 1,619 employees, some of whom are part-time.

APD's operating budget represents a significant portion of the City's total budget. In fiscal years 2019 and 2020, APD represented 20 percent and 19 percent of the City's approved budget. Salaries represented approximately 73 percent (or \$199 million) and 78 percent (or \$211 million) of APD's total annual approved budget in fiscal years 2019 and 2020. Overtime related costs constituted a large portion of total APD salaries paid for both years. Specifically, in fiscal years 2019 and 2020, APD paid \$17.9 million and \$18.3 million in related overtime costs.

All sworn APD personnel (excluding ranks of Commander and higher) are eligible to earn overtime. APD civilian personnel are eligible to earn overtime if they are classified as a non-exempt employee or an "hourly" worker. According to APD management, overtime is worked based on departmental needs, such as backfilling for absent staff and covering for vacant positions, police services for unexpected events, additional police services requested by organizations or for special events, and high workloads. The table below details the various types of overtime paid by APD according to the City's Labor Distribution Report in fiscal years 2019 and 2020.

1 Sworn personnel must complete academy training, which prepares them to exercise their authority to carry out peace officer duties including enforcing civil process, inmate transport, and criminal investigation.

2 Generally, civilians working in law enforcement agencies perform administrative and support functions, such as clerical, financial, and information technology duties, that do not require a sworn officer's specialized training or authority.

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Overtime Code	Code Description
Compensatory Time Pay Out	Employees are entitled to overtime compensation at the rate of time-and-a-half of their regular straight-time rate when they perform work in excess of 40 hours in any one work week. The maximum accrual of compensatory time for any officer is 150 hours. Upon separation of employment from APD, officers are limited to cash-out of no more than 40 hours of unused compensatory time at straight-time pay and any accrual of compensatory time over 40 hours must be used 6 months prior to separation.
Chief's Overtime	Private entities can request and pay the City for security services provided by uniformed officers. Officers earn time and a half for hours worked. Unlike all other forms of overtime, the City is fully reimbursed for its costs related to Chief's Overtime. The hourly rate charged to the private entities includes the overtime rate paid to the officer, costs associated with the use of City owned equipment and vehicles, and the administrative costs of running the Chief's Overtime Program. Fees paid by the private organizations go to the City's General Fund, not to APD directly. APD is reimbursed for its anticipated Chief's Overtime costs through a line item in its annual budget.
Overtime Contract Based	Employees are entitled to overtime compensation at the rate of time-and-one-half their regular straight-time rate when they perform work in excess of forty (40) hours in any one work week schedule.
Overtime FLSA	Unless exempt, employees covered by the Act shall be entitled to overtime compensation at the rate of one and one-half their regular straight-time rate when they perform work in excess of forty (40) hours in any one work week.
Overtime Straight Wages	Employees assigned to on-call status shall be entitled to receive eight (8) hours of straight wages for each seven (7) days of the assignment. Officers on a day-to day on call status shall receive two (2) hours of straight wages for every twenty-four hours of the assignment, not to exceed eight (8) hours in a week.
Overtime Upgrade	Employees temporarily assigned to a higher graded position shall be entitled to receive the entrance rate or one step above present rate, whichever is higher. Selected employees must be qualified to perform duties of the higher position to be eligible.
Retro Overtime	Retro compensation is used for error corrections from a prior period.

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APD pays many of its employees overtime and extra pay based on the requirements of the Fair Labor Standards Act³ (FLSA) and the contracts negotiated with the members' collective bargaining units. Standard Operating Procedure, 3-20 Overtime, Compensatory Time and Work Shift Designation (SOP 3-20) is APD's policy to compensate personnel for all overtime worked in the form of wages and/or compensatory time as provided by law. The overtime pay is typically "time and a half," or 150 percent of the employee's normal hourly wage rate.

The department also gives extra pay, referred to as premium pay, to employees for specific job duties or special skills. Many of these premium pays (excluding Clothing Allowance and Specialty Pay) are included in the normal hourly wage rate upon which overtime is calculated. The below exhibit details the premium pays that were paid in fiscal years 2019 and 2020 according to the City's Labor Distribution Report.

Overtime Code	Code Description
Bilingual	Officers shall be entitled to compensation upon demonstration and certification of language proficiency. Conversational only will be compensated at \$9.23 per hour; Certified will be compensated at \$23.08 per hour.
Birthday Off	Employees shall not be required to work on their birthday. In cases of emergencies, officers required to work shall be entitled to holiday pay at the rate of time and a half for their normal shift.
Child Abuse Response Evaluator	Officers serving on the department's active roster for CARE's specialty shall be entitled to an additional \$50.00 per pay period.
CIT Certification	Officers assigned to the Enhanced Crisis Intervention Team and are duly certified by the Crisis Intervention Unit are entitled to an additional \$23.08 per pay period.
Clothing Allowance Biweekly	Non-union sworn officers (Police Officer Second Class and Metro Court Officers), Aviation Officer in the APOA, and certain classifications of nonsworn individuals (Prisoner Transport Officers, Cadets and Public Service Aides are entitled to a biweekly clothing allowance.
FTO Recruit Training	Officers with special departmental skills shall be entitled to \$50.00-100.00 per pay period in addition to any other incentive pay.

3 The Fair Labor Standards Act establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting employees in the private sector and in Federal, State, and local governments. Covered nonexempt workers are entitled to a minimum wage of not less than \$7.25 per hour effective July 24, 2009. Overtime pay at a rate not less than one and one-half times the regular rate of pay is required after 40 hours of work in a workweek.

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Hazard Pay	Officers assigned to the hazardous classifications shall be entitled to an additional \$23.08 per pay period. Officers assigned to the Tactical Team shall be entitled to \$115.38 per pay period.
Incentive Field Training	Officers with special departmental skills shall be entitled to \$50.00-100.00 per pay period in addition to any other incentive pay.
Incentive Pay	Officers will receive academic compensation ranging from \$62.31 bi-weekly for a Bachelor's degree to \$85.38 bi-weekly for a PhD.
Longevity	Beginning with year five (5) of service, officers shall be entitled to receive an additional \$100.00 bi-weekly with the maximum earning potential amount of \$600.00 bi-weekly beginning at eighteen (18) years of service.
Search, Rescue & Dive Team	Officers assigned to the hazardous classifications shall be entitled to an additional \$23.08 per pay period. Officers assigned to the Tactical Team are entitled to \$115.38 per pay period.
Shift Differential	Patrolmen, sergeants and lieutenants shall be entitled to a shift differential pay premium when assigned to Watch I or Watch III.
Special Pay	Officers with special departmental skills, (i.e. pilots, motorcycle officers, horse mounted units, etc.) shall be entitled to \$50.00-100.00 per pay period in addition to any other incentive pay.
Super Longevity/ Top Step Pay	Officers that achieve the top step of their grade for 364 days shall be entitled to \$34.62 per pay period. Employees may no longer become eligible for this benefit after July 1, 2004.
Temporary Upgrade	Employees temporarily assigned to a higher graded position are entitled to receive the entrance rate or one step above present rate, whichever is higher. Selected employees must be qualified to perform duties of the higher position to be eligible.
Trainer Pay	Clerical and Technical employees who successfully complete the City's Train the Trainer Program can earn 15 percent trainer pay when assigned to training duties.

Overtime paid to APD employees has increased exponentially over the past ten years, with overtime costs averaging nearly \$18.1 million over the last two fiscal years. OIA analyzed two fiscal years of APD payroll data and summarized the results below:

Overtime Hours Worked in 2019		Overtime Hours Worked in 2020	
Number of Employees	Number of Overtime Hours	Number of Employees	Number of Overtime Hours
2	2,000 or greater	4	2,000 or greater
4	Between 1,800 and 1,999	2	Between 1,800 and 1,999
3	Between 1,600 and 1,799	3	Between 1,600 and 1,799
7	Between 1,400 and 1,599	7	Between 1,400 and 1,599

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12	Between 1,200 and 1,399	18	Between 1,200 and 1,399
20	Between 1,000 and 1,199	27	Between 1,000 and 1,199
49	Between 800 and 999	50	Between 800 and 999
113	Between 600 and 799	93	Between 600 and 799
175	Between 400 and 599	163	Between 400 and 599
355	Between 200 and 399	341	Between 200 and 399
232	Between 100 and 199	238	Between 100 and 199
370	Between 0 and 99	507	Between 0 and 99
<i>1,342</i>	<i>624,388 Total Hours</i>	<i>1,453</i>	<i>617,430 Total Hours</i>

Overtime Dollars Paid in 2019	
Number of Employees	Dollars Paid for Overtime
2	\$100,000 or more
0	Between \$90,000 and \$99,999
2	Between \$80,000 and \$89,999
5	Between \$70,000 and \$79,999
10	Between \$60,000 and \$69,999
17	Between \$50,000 and \$59,999
39	Between \$40,000 and \$49,999
82	Between \$30,000 and \$39,000
158	Between \$20,000 and \$29,999
313	Between \$10,000 and \$19,999
252	Between \$5,000 and \$9,999
462	Between \$0 and \$4,999
<i>1,342</i>	<i>\$17,937,768 Total Dollars</i>

Overtime Dollars Paid in 2020	
Number of Employees	Dollars Paid for Overtime
2	\$100,000 or more
2	Between \$90,000 and \$99,999
2	Between \$80,000 and \$89,999
5	Between \$70,000 and \$79,999
11	Between \$60,000 and \$69,999
21	Between \$50,000 and \$59,999
40	Between \$40,000 and \$49,999
83	Between \$30,000 and \$39,000
143	Between \$20,000 and \$29,999
291	Between \$10,000 and \$19,999
274	Between \$5,000 and \$9,999
579	Between \$0 and \$4,999
<i>1,453</i>	<i>\$18,321,726 Total Dollars</i>

APD utilizes Kronos Workforce TeleStaff (TeleStaff), an automated scheduling system for public safety agencies, that tracks uniformed police officers' work shifts, overtime hours, and all related requests for time off. Officer schedules are preloaded into TeleStaff and civilian schedules in Kronos Workforce Central (Kronos). Any deviations from the normal schedule, such as overtime, leaves, or training, must be manually entered into the respective system by the employee. It is each employee's responsibility to enter any overtime worked timely and accurately. Each employee's supervisor is responsible for approving all time entries in either TeleStaff or Kronos each pay period. At the end of each pay period, time entry

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information from TeleStaff is transmitted to Kronos and then all Kronos information is ultimately transferred to PeopleSoft, the City payroll system, to be processed by the Department of Finance and Administrative Services for payment.

APD utilizes a computer aided dispatch (CAD) system to assist in the coordination and documentation of department response to request for police services. CAD is the real-time record-keeping system which documents the call-in times when officers start and end their shifts and any response to calls for services that occurred during their shifts. However, the CAD system does not interface with TeleStaff, Kronos, or PeopleSoft.

FINDINGS

The following findings concern areas that OIA believes could be improved by the implementation of the related recommendations.

1. SOME OFFICERS WERE PAID FOR SCHEDULED HOURS THAT WERE NOT WORKED AND SOME OFFICERS DID NOT HAVE COMPUTER DISPATCH REPORTS TO SUPPORT THE HOURS PAID.

The audit identified overpayments that resulted from employees being paid based on their scheduled hours, instead of the actual hours worked. The audit identified 64 instances where the number of daily hours reported as worked in the Computer Aided Dispatch (CAD) system, were at least 30 minutes less than the total hours paid that day. These instances resulted in overtime related payments totaling at least⁴ \$4,545. For example, one officer was scheduled and paid for an 8-hour shift, but according to the related CAD report, only worked 6 hours and 58 minutes of the shift.

According to APD management, all officers' regular schedules are prepopulated in TeleStaff and any deviations from the schedule must be manually adjusted by the employee and approved by their supervisor. For instance, if an officer works two hours

4 - OIA calculated the minimum overpayments based on the time and a half rate and not the FLSA overtime rate, which tends to be higher.

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of overtime, it is the officer's responsibility to add two hours to that day's schedule in TeleStaff. The converse is also true. Should an officer work two hours less than their regularly scheduled shift, it is the officer's responsibility to adjust that day's scheduled hours in TeleStaff by two. However, the audit found that only the former practice was consistently done.

Additionally, the audit found that not all sworn officers had CADs to support the hours worked and ultimately paid. Specifically, in the sample tested there were 40 days for which there were no CADs for the days worked, which excluded training. These missing CADs were related to 9 of the 11 officers tested and resulted in a minimum⁵ of \$8,635 in related payments. For example, in one week an officer worked 55 hours of contract-based overtime, but only had CADs to support 6 hours of that time.

APD cannot effectively track or account for the hours worked by officers who do not properly record their duty information in the dispatch records and therefore lacks documentation that could be used to substantiate the accuracy of the work hours, including overtime, that officers report on their timesheets. According to SOP 2-10 Use of Emergency Communications, all sworn personnel are required to log onto the CAD system before leaving their residence in a city-owned vehicle and shall not log off until they return at the end of their duty assignment. While it may be too cumbersome for supervisors to reconcile TeleStaff to daily CAD reports every pay period, a periodic review could be performed on a sample basis. This type of spot-check review could help to reinforce employee compliance with the SOP requirements.

RECOMMENDATIONS:

The Albuquerque Police Department should:

1. Seek repayment from officers, if upon research by the department, it is determined that the employee was overpaid. The City Attorney's Office should be consulted if

⁵ OIA calculated the minimum overpayments based on the time and a half rate and not the FLSA overtime rate, which tends to be higher.

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repayments are due from individuals who have since terminated employment with the City of Albuquerque.

2. Begin conducting periodic spot-checks of officers' time to verify that the time reported in TeleStaff is accurately supported by the time reflected in the officers' Computer Aided Dispatch reports. This review could be conducted internally by management or by Internal Affairs or the Office of Internal Audit.

2. APD COMPENSATION POLICIES ARE OUTDATED AND LACK GUIDANCE REGARDING SUPERVISORY APPROVALS AND OVERTIME MONITORING PRACTICES.

Standard Operating Procedure 3-20 Overtime, Compensatory Time and Work Shift Designation (SOP 3-20) is APD's policy to compensate personnel for all overtime worked in the form of wages and/or compensatory time as provided by law. However, SOP 3-20 has not been updated since 2017 and as written, is not currently aligned with best practices nor reflective of many of APD's current payroll practices. For example, SOP 3-20 requires that all overtime, with the exception of Court Overtime and Chief's Overtime, be preapproved by the employee's supervisor and recorded on a daily basis on the weekly timesheets. The SOP also requires that a Non-Scheduled Time form (PD-4019) be completed by the employee performing the overtime and approved by the appropriate supervisor in the chain of command. However, due to APD's transition to TeleStaff, this manual paper-form practice is no longer in use. Rather, the accepted practice is that supervisors' approval of time worked in TeleStaff or Kronos, serves as acknowledgement that the overtime worked was preapproved. In the sample tested, OIA identified 232 instances where there was no evidence that the overtime worked was preapproved as currently required by the SOP. These instances totaled 1,233 hours and \$51,429.

On May 29, 2020, the Chief of Police issued Special Order SO 20-43, which limited the number of total hours and overtime hours that an employee can work in a week to 65 and 25, respectively.⁶ However, the Special Order also provides for the Chief of Police or

⁶ Special Order 20-29 lifted the 25-hour weekly limit on Chief's Overtime for select locations considered essentials as a result of the COVID-19 outbreak.

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his designee to be able to waive the weekly cap to meet department operation needs. The Special Order states that it "is the employee's responsibility to monitor/keep up with their total number of hours worked in any capacity."

Monitoring of employee overtime to ensure that the 25-hour weekly limit is not exceeded, is not currently being done at the supervisor level. SOP 3-20 does not give APD supervisors direct oversight responsibility for the monitoring of overtime hours worked or requested to be worked by their subordinates to ensure that the 25-hour weekly limit on overtime is not exceeded. According to SOP 3-20, "Supervisors are responsible for monitoring leave taken, the work schedule, and overtime worked by their subordinates, even if the subordinate is working on a special assignment. The regular supervisor is also expected to coordinate with the operational supervisor in charge of the special assignment to minimize the use of overtime." While units such as the Chief's Overtime Program and the Grants Overtime Program independently monitor their respective overtime hours to ensure that employees do not exceed the overtime maximum, there is no centralized monitoring of any and all types of overtime that is done on an employee by employee basis.

APD Payroll runs an Exception Report in Kronos each pay period to identify any non-regularly scheduled time entries that were not approved by a supervisor. Time that is not approved by a supervisor will not be paid. These Exception Reports typically include hundreds of entries that were not approved each pay period. OIA ran an Exception Report for the pay period ending July 30, 2020 and found that there were 274 non-regular time entries that had not been approved by a supervisor, which totaled \$8,393 and 1,591 hours. Of the total exceptions noted, 162 (59 percent) were for overtime, which totaled \$3,340 and 491 hours.

In order process these exception entries, APD Payroll requires that a Pay Memo and Timesheet Correction form be completed by the employee and signed by their supervisor. These are paper forms that require significant time from APD Payroll staff to review and process each pay period. Additionally, because APD Payroll has to manually enter the corrections into Kronos, the process is open to human error and does not allow effective monitoring. While there may be instances when payroll exceptions are unavoidable, they should be the exception and not the standard practice.

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APD uses several systems that contain employee schedules, time, payroll, and human resources information. However, as previously discussed, many of the systems do not interface to share important information. Utilizing multiple systems for payroll processing can make it time consuming and difficult for supervisors to monitor and approve their employees' time. Compounding this issue is the fact that supervisors are not required to complete TeleStaff Supervisor Training before being able to approve time. While training is an essential part in creating awareness regarding the importance of reviewing and approving timesheets completely, accurately, and timely, it is also imperative that policies and procedures clearly outline what is expected of supervisors as part of their timesheet review and approval.

Leading practices require a single system of comprehensive policies and procedures and a formal structure for reviewing and establishing policy. Changes to an SOP are often communicated through Special Orders, which take precedence over all other previously issued directives and are considered the most authoritative policies and procedures. Consequently, APD employees may have to read through SOPs and multiple years of Special Orders to attempt to understand what sections of policy and procedure related to compensation are still applicable today.

According to SOP 3-51 Administrative Orders, SOPs establish the Department's policies and procedures to be followed by both sworn and non-sworn department employees. The SOPs are designed to delineate what is expected of each sworn officer when carrying out assigned duty responsibilities, as well as the Department as a whole. SOPs are intended to do so by clearly communicating standards and promoting accountability. According to the Deputy Chief, SOP 3-20 is in the process of being revised and is expected to be submitted to the Civilian Police Oversight Board⁷ for review by the by the end of the calendar year.

According to the International Association of Chiefs of Police⁸ (IACP)⁵, Police

⁷ The Civilian Police Oversight Agency (CPOA) receives, investigates and reviews complaints and commendations submitted by community members for/against the Albuquerque Police Department. CPOA also reviews APD policies, practices, and procedures and makes recommendation to the Chief of Police.

⁸ The International Association of Chiefs of Police (IACP) is professional association of police leaders and is

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Departments may call their policy and procedures manual different names – policy and procedures, operations manual, or standard operating procedures. Regardless of the name, the document provides staff with the guidance necessary to perform department operations. The *Best Practices Guide for Developing a Police Department Policy-Procedure Manual (the guide)* issued by the IACP, states that policies and procedures should be “comprehensive, providing staff with direction and guidance for all aspects of the department’s operations.” The guide goes on to state that policies and procedures should be “reviewed on at least annual basis in order to ensure that they are in compliance with current management, operational, and legal standards.”

RECOMMENDATIONS:

The Albuquerque Police Department should:

3. Continue its efforts to update Standard Operating Procedure 3-20 Overtime, Compensatory Time and Work Shift Designation (SOP 3-20) to reflect current payroll and overtime practices and to include procedures surrounding time approvals and monitoring of total overtime by supervisors.
4. Review payroll and timekeeping systems for possible system improvements and require that supervisors successfully complete TeleStaff Supervisor Training in order to approve subordinates’ time.

3. WHILE APD HAS RECENTLY TAKEN STEPS TO BETTER MANAGE ITS OVERTIME USE, OPPORTUNITIES EXIST TO FUTHER THESE EFFORTS.

Since OIA’s 16-107 APD Officer Overtime Audit, APD has taken steps to better manage its overtime usage. For instance, the APD Fiscal Division developed management reports that analyze overtime drivers, actual overtime expense versus budget allocations, and year over year cumulative overtime costs. These reports are provided to the command

registered as a not-for-profit 501c (3) organization. The IACP is also the publisher of *The Police Chief* magazine.

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staff and managers for review and are often broken down by organization, category, event, and staff. Further, in an effort to reduce overtime costs, APD also revised its overtime policies. Specifically, in May 2020, the Chief of Police issued Department Special Order SO 20-43, which among other things:

- Required that all training occur during an employee's normal work hours unless approved by their Bureau Deputy Chief to attend training utilizing overtime.
- Prohibited officers from working overtime when on "on call" status.
- Limited the number of hours an officer, sergeant, or lieutenant can work in any one week to 65.⁹
- Re-emphasized that employees are prohibited from being able to use paid sick time (paid at straight time) to work Chief's Overtime.

In the sample tested, OIA found no instances with noncompliance related to these policy changes effective May 2020. However, additional measures could be considered to further manage and/or reduce APD's use of overtime. Specifically, the Special Order does not prevent employees from using other forms of paid time off to work overtime, including Chief's Overtime. For instance, one officer worked 20 hours of their regular 40-hour work week, used 20 hours of vacation time, and then worked 42 hours of overtime. While this occurred before the 25-hour limit on overtime was implemented, this officer did not work 40 hours before being eligible to earn overtime. Further, when examining the officer's entire pay period for this particular example, the officer worked 40 hours, took 40 hours of vacation, and worked 86.25 hours of overtime.

Allowing officers to use paid time off to work overtime, can cause a cascading effect that can increase APD's need for more overtime to ensure adequate coverage. When an officer uses paid leave to work overtime, another officer may need to backfill those hours while on overtime. This could result in the City paying up to four salaries in order to cover one shift. For instance, an officer may use vacation time (paid at straight time) to work overtime (paid at time and a half). Those vacation hours may then be covered by another officer using overtime (paid at time and a half).

⁹ The 65-hour weekly maximum excludes court overtime.

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In the United States, the Fair Labor Standards Act (FLSA) sets overtime requirements, which mandates that employers provide overtime compensation for hours worked in excess of their established work week (typically 40 hours). For example, if an employee receives regular pay at \$20 per hour, they earn overtime pay at \$30 per hour (time and a half). The FLSA does not consider compensatory time, vacations or sick leave as time actually worked. According to FLSA, employers may adopt policies that exceed the minimum standards set by FLSA, which APD has done as part of its negotiations with APOA. Specifically, Section 3.2.1.6 of the Collective Bargaining Agreement (CBA) between APD and APOA states that for the purpose of computing overtime, "paid leave *shall* be considered time worked".

OIA compared the City's CBA with the APOA to similar agreements held by other municipal police departments. The municipal police departments compared included El Paso, Fresno, Louisville, and Milwaukee, which were selected based on a variety of metrics including department budget size and number of full-time employees, city population, crime rate per capita, and city median income and employment rates.

OIA analyzed how many hours an officer must work prior to being eligible for overtime, whether there were limits on the number of overtime hours an officer could work each week or each pay period, what premium pays (if any) were included in the overtime calculation rate, and whether paid time off was considered to be time worked. Of those four cities, three (El Paso, Fresno, and Milwaukee), do not consider sick leave as time worked and that officers, must work – with the exception of vacation leave – a full (40) hours, prior to being eligible for overtime. Additionally, their limitation of overtime hours ranges from (16) to (25) hours on a weekly basis and employees are prohibited from engaging in such employment if they are on sick leave. Lastly, for the purposes of calculating overtime rates, all four cities, similar to Albuquerque, pay hours in excess of 40 at the rate of time-and-one-half of the employee's regular base pay, including applicable incentives. Below is a summarized table of our aforementioned comparisons:

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City	When is an officer eligible for overtime?	Is vacation leave considered work when calculating overtime?	Is sick time considered work when calculating overtime?	Is actual work hours/ off-duty hours limited?	Weekly limit on Chief's Overtime/ Off-Duty hours
Albuquerque	After 40 hours of work or paid leave	Yes	Yes	Yes	25
Milwaukee	After 40 hours of work	Yes	No	Yes	20
El Paso	After 40 hours of work	Yes	No	No	No Limit
Fresno	After 40 hours of work	Yes	No	Yes	16
Louisville	After 40 hours of work or sick leave	Yes	Yes	No	No Limit

Other cities such as Scottsdale have recognized cost savings by revising the way in which overtime can be earned. According to the Police Overtime Audit Report No. 1503, issued by the City of Scottsdale's City Auditor's Office on December 9, 2014, as part of its fiscal year 2011-12 budget reductions, the City of Scottsdale changed how overtime pay was calculated. Previously, overtime was calculated based on the number of hours reported each week, including holiday and leave time taken. This is similar to how APD currently calculates overtime, however the City of Scottsdale now pays overtime based on the hours actually worked, which is consistent with the FLSA.

RECOMMENDATIONS:

5. Consistent with its efforts to better manage overtime costs, the Albuquerque Police Department should consider attempting to negotiate the changes in its Collective Bargaining Agreement with the Albuquerque Police Officers Association, so that overtime is calculated based on the number of hours actually worked each week, which is consistent with the requirements of the Fair Labor Standards Act.
6. The Albuquerque Police Department should consider expanding its compensatory and overtime policies so that using other forms of paid time off to work overtime, including Chief's Overtime, is no longer permitted.

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4. ONE APD EMPLOYEE UTILIZED THE SYSTEM LOGIN CREDENTIALS OF THEIR SUPERVISOR, THE FORMER CHIEF OF STAFF, TO APPROVE THEIR OWN TIME, WHICH INCLUDED 282 HOURS AND \$8,830 IN RELATED OVERTIME.

During the end of audit fieldwork, APD and OIA both became aware of an allegation that an APD civilian employee was approving their own time in Kronos. APD conducted its own investigation into the matter and reviewed the internet protocol (IP) addresses for Kronos timekeeping approvals from March 2019 to September 2019 for the employee in question. The IP address refers to a unique identifier every machine accessing the World Wide Web is given. For City owned equipment, the identification number is unique for every machine. APD's internal review found 179 instances when the same IP address was used moments apart to both enter and approve the employee's time. According to the Department of Technology and Innovation, had the manager formally delegated their approval authority in Kronos, the system would have prohibited the employee from being able to approve their own time.

While it may be possible that the same computer was used by the employee and their manager to perform each respective task, APD believes it is more than likely that both the employee and manager entries were done on the same computer by only the employee who had access to the manager's time approval credentials. Whether this action was authorized by the manager is irrelevant, as APD Policy (SOP 2-9) prohibits this practice along with City of Albuquerque's IT Policy (Security: User ID Security & Password Standard).

Neither the employee or the employee's manager are currently employed by APD. However, in order to determine whether this issue was isolated or department wide, OIA reviewed a sample of IP addresses of Kronos timekeeper entries and approvals. The sample reviewed found no other instances were Kronos time entries and approvals shared the same IP address.

Supervisory approval is one of the most critical overtime controls as it helps ensure that overtime pay requested is approved and is actually worked by the employee. When a manager or supervisor allows an employee to approve their own time, the proper segregation of duty control is overridden. In this way, an employee may be able to be paid for overtime that was not actually approved and/or worked.

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RECOMMENDATION:

The Albuquerque Police Department should:

7. Communicate to staff the City and the department's policies prohibiting employees from lending their password or username to anyone.

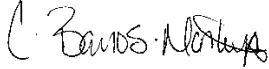
CONCLUSION

By implementing the recommendations detail in this report, the Albuquerque Police Department can improve its ability to more effectively administer, manage, and monitor its use of overtime. The Department's response to the recommendations made are included in the APPENDIX B of the report. We greatly appreciate the assistance of the Albuquerque Police Department that participated throughout this audit and made both their staff and requested documents readily available, as well as the involvement and cooperation of the Central Payroll Division within the Department of Finance and Administrative Services and the Department of Technology & Innovation.

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PREPARED:



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Edmund E. Perea, Chairperson, Accountability in
Government Oversight Committee

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APPENDIX A

OBJECTIVES

The audit objective was to determine whether APD has a framework in place to effectively administer, manage, and monitor overtime. Specifically, the audit assessed whether:

- Overtime incurred and paid, is accurate and appropriate and complies with the City's Collective Bargaining Agreement and subsequent Memorandums of Understandings with the Albuquerque Police Officers Association, as well as City and departmental policies and procedures.
- APD has policies and procedures in place that are effective in preventing and identifying excessive use of overtime.

SCOPE AND LIMITATIONS

Our audit did not include an examination of all functions and activities related to APD overtime. Our scope was limited to the objectives above. Specifically, the scope of the audit did not include the calculation of overtime and allocation of overtime hours in accordance with the Fair Labor Standards Act, as this function is administered solely by Department of Finance and Administrative Services and not by APD. This report and its conclusions are based on information taken from a sample of payroll records, systems, and users and do not represent an examination of all related payroll records, systems, and users. The audit report is based on our examination of functions and activities through the completion of fieldwork on October 16, 2020, and does not reflect events after that date.

City management is responsible for establishing and maintaining effective internal control and complying with laws and regulations.

In performance audits, a deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct (1) impairments of effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) noncompliance with applicable laws, regulations, standards, guidelines, and/or best practices. A deficiency in design exists when (a) a control necessary to meet the control objective is missing or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective is not met. In the performance audit requirements, the term significant is comparable to the term material as used in the context of financial statement engagements. A deficiency in operation exists when a properly

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designed control does not operate as designed, or when the person performing the control does not possess the necessary authority or qualifications to perform the control effectively.

Our consideration of internal control was for the limited purpose described in our audit objectives and was not designed to identify all deficiencies in internal control. Therefore, unidentified deficiencies may exist. Accordingly, we do not express an opinion on the effectiveness of the City's internal control.

As part of the performance audit, we tested the City's compliance with applicable laws, and regulations. Noncompliance with these requirements could directly and significantly affect the objectives of our audit. However, opining on compliance with all provisions was not an objective of our performance audit and accordingly, we do not express an opinion.

We conducted this performance audit in accordance with generally accepted government auditing standards for performance audits, as prescribed in *Government Auditing Standards*, revision 2011, issued by the Controller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

METHODOLOGY

Methodologies used to accomplish the audit objectives include but are not limited to the following:

- Interviewed and observed key departmental personnel to gain an understanding of the processes, systems, and data audited;
- Reviewed and analyzed APD's overtime policies and procedures, Collective Bargaining Agreement and subsequent Memorandums of Understanding with the Police Officers Association, and Department Special Orders;
- Reviewed prior audits, studies, and best practice publications surrounding police payroll and overtime practices;
- Reviewed relevant sections of the City's Administrative Instructions and Federal Labor Standard Act;
- Analyzed and summarized a complete payroll data file for the department for the audit period;

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- Collected and analyzed benchmarking information from comparable municipal police departments;
- Verified the accuracy and appropriateness of the amounts paid for a sample of 62 weeks from 15 different APD employee's (including both sworn and civilian employees);
- Analyzed a sample of internet protocol (IP) address of Kronos timekeeper entries and approvals to determine when entries and approvals shared the same IP address;
- Evaluated the results of testing to determine and document if sufficient, appropriate evidence has been obtained to address audit objectives and reduce audit risk to an acceptable level and that evidence is sufficient and appropriate to support findings and conclusion; and
- Summarized all findings and provided the auditee with recommendations that will help to strengthen internal control, cost savings, and operating efficiency and effectiveness.

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APPENDIX B

Recommendations and Responses

For each recommendation, the responsible agency should indicate in the column labeled Agency Response whether it concurs, does not concur, or partially concurs and provide a brief explanation. If it concurs with the recommendation, it should indicate the expected implementation date and implementation plan. If the responsible agency does not concur or partially concurs, it should provide an explanation and an alternate plan of action to address the identified issue. Status Determination is evaluated based on the audit team's review of the departments response and proposed corrective action.

Recommendation	Responsible Department	Department Response	<u>OIA Use Only</u> Status Determination
<p>The Albuquerque Police Department should:</p> <ol style="list-style-type: none"> 1. Seek repayment from officers, if upon research by the department, it is determined that the employee was overpaid. The City Attorney's Office should be consulted if repayments are due from individuals who have since terminated employment with the City of Albuquerque. 	<p>The Albuquerque Police Department</p>	<p><input checked="" type="checkbox"/> Concur <input type="checkbox"/> Do Not Concur <input type="checkbox"/> Partially Concur</p> <p>Repayment of overpaid wages, legal action and disciplinary action continues to be the process/policy of APD in manners such as this. This requires no new policies, changed policies or actions by APD.</p>	<p><input checked="" type="checkbox"/> Open <input type="checkbox"/> Closed <input type="checkbox"/> Contested</p>

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Recommendation	Responsible Department	Department Response	<u>OIA Use Only</u> Status Determination
2. Begin conducting periodic spot-checks of officers' time to verify that the time reported in TeleStaff is accurately supported by the time reflected in the officers' Computer Aided Dispatch reports. This review could be conducted internally by management or by Internal Affairs or the Office of Internal Audit.	The Albuquerque Police Department	<input type="checkbox"/> Concur <input type="checkbox"/> Do Not Concur <input checked="" type="checkbox"/> Partially Concur Some officers are in an "on-call" status and are not logged onto the CAD system when they are called back and conduct "billable" work for the police department. Some hours that are turned in for OT will legitimately not show up as an incident in the CAD system.	<input checked="" type="checkbox"/> Open <input type="checkbox"/> Closed <input type="checkbox"/> Contested
3. Continue its efforts to update Standard Operating Procedure 3-20 Overtime, Compensatory Time and Work Shift Designation (SOP 3-20) to reflect current payroll and overtime practices and to include procedures surrounding time approvals and monitoring of total overtime by supervisors.	The Albuquerque Police Department	<input checked="" type="checkbox"/> Concur <input type="checkbox"/> Do Not Concur <input type="checkbox"/> Partially Concur APD has re-written SOP 3-20 from the ground up and the final approval process is already well at hand. It is expected to be completed in the most expedited manner possible. Until the final policy is codified, a special order will be issued and followed by all APD employees.	<input checked="" type="checkbox"/> Open <input type="checkbox"/> Closed <input type="checkbox"/> Contested
4. Review payroll and timekeeping systems for possible system improvements and require that supervisors successfully complete TeleStaff Supervisor Training in order to approve subordinates' time.	The Albuquerque Police Department	<input checked="" type="checkbox"/> Concur <input type="checkbox"/> Do Not Concur <input type="checkbox"/> Partially Concur Training should be conducted and available in an "on-demand" fashion to allow for follow-up questions/issues by the employee.	<input checked="" type="checkbox"/> Open <input type="checkbox"/> Closed <input type="checkbox"/> Contested

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Recommendation	Responsible Department	Department Response	<u>OIA Use Only</u> Status Determination
<p>5. Consistent with its efforts to better manage overtime costs, the Albuquerque Police Department should consider attempting to negotiate the changes in its Collective Bargaining Agreement with the Albuquerque Police Officers Association, so that overtime is calculated based on the number of hours actually worked each week, which is consistent with the requirements of the Fair Labor Standards Act.</p>	<p>The Albuquerque Police Department</p>	<p><input type="checkbox"/> Concur <input checked="" type="checkbox"/> Do Not Concur <input type="checkbox"/> Partially Concur</p> <p>It is understood by all parties that the APOA has no interest in changing their position on this. No change is expected to occur.</p>	<p><input type="checkbox"/> Open <input checked="" type="checkbox"/> Closed <input type="checkbox"/> Contested</p>
<p>6. The Albuquerque Police Department should consider expanding its compensatory and overtime policies so that using other forms of paid time off to work overtime, including Chief's Overtime, is no longer permitted.</p>	<p>The Albuquerque Police Department</p>	<p><input type="checkbox"/> Concur <input type="checkbox"/> Do Not Concur <input checked="" type="checkbox"/> Partially Concur</p> <p>The contract with the APOA allows officers to use their earned time off to work other assignments. The new SOP 3-20 already in approval process will not allow OT to be paid to "back-fill" the officers normal work position due to this time-off/optional work duty assignment.</p>	<p><input checked="" type="checkbox"/> Open <input type="checkbox"/> Closed <input type="checkbox"/> Contested</p>

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Recommendation	Responsible Department	Department Response	<u>OIA Use Only</u> Status Determination
7. Communicate to staff the City and the department's policies prohibiting employees from lending their password or username to anyone.	The Albuquerque Police Department	<input checked="" type="checkbox"/> Concur <input type="checkbox"/> Do Not Concur <input type="checkbox"/> Partially Concur This is already codified in policy, any alleged incident is fully investigated and disciplinary action taken if incident is determined to be "sustained".	<input checked="" type="checkbox"/> Open <input type="checkbox"/> Closed <input type="checkbox"/> Contested